

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

STATE OF OKLAHOMA, ex rel. W.A. DREW)
EDMONDSON, in his capacity as ATTORNEY)
GENERAL OF THE STATE OF OKLAHOMA and)
OKLAHOMA SECRETARY OF THE)
ENVIRONMENT C. MILES TOLBERT, in his)
capacity as the TRUSTEE FOR NATURAL)
RESOURCES FOR THE STATE OF)
OKLAHOMA,)

Plaintiff,

vs.

TYSON FOODS, INC., TYSON POULTRY, INC.,)
TYSON CHICKEN, INC., COBB-VANTRESS,)
INC., CAL-MAINE FOODS, INC., CAL-MAINE)
FARMS, INC., CARGILL, INC., CARGILL)
TURKEY PRODUCTION, LLC, GEORGE'S, INC.,)
GEORGE'S FARMS, INC., PETERSON FARMS,)
INC., SIMMONS FOODS, INC., and WILLOW)
BROOK FOODS, INC.,)

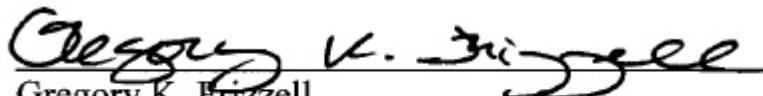
Defendants.

Case No. 05-CV-329-GKF-SAJ

ORDER

Upon review of the briefs submitted by the parties, defendants' Motion to Dismiss Count 6¹ of Second Amended Complaint [Document No. 1235] is denied.

IT IS SO ORDERED this 7th day of January 2008.


Gregory K. Frizzell
United States District Judge
Northern District of Oklahoma

¹ Count 6 is plaintiff's claim for trespass to "water in that portion of the Illinois River Watershed located within the territorial boundaries of the State of Oklahoma which runs in definite streams, formed by nature, over or under the surface," as to which Oklahoma statutory law grants rights to the people of the state of Oklahoma. 60 Okla. Stat. §60(A).